

Remarks

A. Pending Claims

Claims 1-3, 7-12, 15-18, 20, 22-26, and 29, are currently pending. Claims 1-3, 5, 9-12, 15-18, 23-26, and 29-30 are rejected. Claims 6-8 and 20-22 have been objected to. Claims 4, 6, 13-14, 19, 21, 27-28, and 30 have been cancelled. Claims 1, 7-8, 11-12, 15-16, 20, and 22 have been amended.

B. The Claims Are Not Anticipated By Davis Pursuant To 35 U.S.C. § 102(b)

The Office Action included a rejection of claims 1-5, 9-12, 16-18, 23-26, and 30 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,433,671 to Davis ("Davis"). Applicant respectfully disagrees with these rejections.

Claims 4-6, 13-14, 19, 21, 27-28, and 30 have been cancelled. The Office Action states that claims 6-8 and 20-22 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 1 has been amended to include features from objected to dependent claim 6 including certain features of the base claim. Claim 16 has been amended to include features from objected to dependent claim 21 including certain features of the base claim. Applicant submits that amended claims 1 and 16 and the claims dependent thereon, are in condition for allowance.

The standard for "anticipation" is one of fairly strict identity. To anticipate a claim of a patent, a single prior source must contain all the claimed essential elements. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 U.S.P.Q.81, 91 (Fed. Cir. 1986); *In re Donahue*, 766 F.2d 531, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

The Office Action states:

Davis disclosed a water amusement system comprising a first amusement ride (32); a second amusement ride (20); an elevation (50) configured to convey at least one flexible inflated vehicle (42) from an exit point (53a) of the first water amusement to an entry point (22) of the second water amusement ride, Fig. 1 shows the exit point (53a) of the first ride and entry point of the second ride are at different elevation levels; an exit point (24) of the second ride and an entry point of the first ride (32) (not numbered) are coupled (applicant's claims 1, 5, 16).

Claim 1 describes a combination of features including: "a first water amusement ride; a second water amusement ride; and an elevation system configured to convey at least one flexible inflated vehicle from an exit point of the first water amusement ride to an entry point of the second water amusement ride." Claim 16 describes a combination of features including: "a first water amusement ride; a second water amusement ride; and an elevation system configured to convey at least one flexible inflated vehicle from an exit point of the first water amusement ride to an entry point of the second water amusement ride." At least the above-quoted features of the claims, in combination with other features of the claim, do not appear to be taught or suggested by the cited art.

Davis discloses:

In accordance with a first aspect of the present invention, a device is provided for transporting a water ride participant from a first elevation to a second, higher elevation. The device includes a spiral transport element extending generally between the first and second elevations. The spiral transport element has first and second end sections, an intermediate section and an inner surface extending along the intermediate and first and second end sections. The inner surface defines a spiral pathway extending between the first and second elevations. Further provided is a drive mechanism coupled to the spiral transport element for effecting rotation of the transport element such that the first end

section of the transport element is capable of receiving a participant at the first elevation and the second end section is capable of releasing the participant at the second elevation after the participant has traveled along the spiral pathway from the first elevation to the second, higher elevation.

Preferably, the spiral transport element comprises a spiral flume, a rotatable shaft and means for fixedly connecting the spiral flume to the shaft. The spiral flume comprises a plurality of fiberglass flume sections fixedly connected to one another by fasteners. Alternatively, the spiral transport element may comprise a spiral tube having an inclined axis, a rotatable shaft and means for fixedly connecting the spiral tube to the shaft.

In accordance with a second aspect of the present invention, an amusement water ride is provided which includes a downward sloping element having an upper surface over which water flows and upon which a participant is capable of moving under the influence of gravity from a first end of the sloping element to a second, lower end of the sloping element. The second, lower end is located generally at a first elevation and the first end is located generally at a second, higher elevation. The water ride further includes a pool of water located generally at the first elevation and a spiral transport device for retrieving the participant from the pool of water and transporting the participant to the second elevation where the participant is released at the first end of the sloping element. (Davis, column 1, line 52 through column 2, line 25).

Applicant submits Davis does not appear to teach the combination of features in Applicant's claims, including but not limited to "a first water amusement ride; a second water amusement ride; and an elevation system configured to convey at least one flexible inflated vehicle from an exit point of the first water amusement ride to an entry point of the second water amusement ride." To anticipate a claim of a patent, a single prior source must contain all the claimed essential elements. Davis appears to teach a spiral transport element for transporting a water ride participant from a first elevation to a second, higher elevation including a downward sloping element having an upper surface over which water flows from the second higher elevation to the first lower elevation. Such teaching is not the same as the combination of features in Applicant's claims, including but not limited to "a first water amusement ride; a second water amusement ride; and an elevation system configured to convey at least one flexible inflated vehicle from an exit point of the first water amusement ride to an entry point of the second water

amusement ride.” Applicant submits that the combination of features in claims 1 and 16 and the claims dependent thereon are neither taught nor suggested by the cited art. Applicant believes many of the claims dependent on claims 1 and 16 may be separately patentable. Applicant respectfully requests removal of the rejection of claims 1 and 16 and claims dependent thereon.

C. **The Claims Are Not Obvious Over Davis In View of Brodrick Pursuant To 35 U.S.C. § 103(a)**

The Office Action included a rejection of claims 15 and 29 under 35 U.S.C. 103(a) as obvious over Davis in view of U.S. Patent No. 5,167,321 to Brodrick, Sr. (“Brodrick”). Applicant respectfully disagrees with these rejections.

The Office Action states:

It is noted that the elevation system of Davis is not a conveyor belt system as set forth therein. However, such conveyor belt system is very well known in the art as evidenced by conveying system having a conveyor belt (5) for transporting an inflatable raft. Therefore, it would have been obvious to one of ordinary skill in the art to modify the elevation system of Davis with a conveyor belt system as taught by Brodrick, Sr. for the purpose of providing alternate method transporting the ride vehicles to better entertain the users.

Applicant submits that the cited art does not appear to teach or suggest the combination of features in claims 15 and 29.

Claims 15 and 29 describe a combination of features including: “wherein the elevation system comprises a conveyor belt system.”

Davis discloses:

A transport device is provided for transporting a water ride participant from a first elevation to a second, higher elevation. The device includes a spiral transport element extending generally between the first and second elevations. (Davis, abstract).

Brodrick discloses:

The present invention uses hook and loop materials to achieve temporary, releasable adhesion between the rafts and the conveyer belt or chain. This solution eliminates several of the previous problems. It makes it possible to transport rafts on very steep conveyers, which has hitherto not been feasible. It reduces safety risks in that there are no protruding parts. It greatly facilitates operation, since the rafts do not have to be precisely positioned to match up latching elements. Because of this feature, it is easy to obtain automatic operation at both ends of the conveyer, with little supervision and labor requirement. (Brodrick, column 1, lines 34-45).

Applicant submits Davis in view of Brodrick does not appear to teach the combination of features in Applicant's claims. Obviousness can only be established by "showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teaching of the references." *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Office Action states, "it would have been obvious to one of ordinary skill in the art to modify the elevation system of Davis with a conveyor belt system as taught by Brodrick, Sr. for the purpose of providing alternate method transporting the ride vehicles to better entertain the users." However, Davis appears to teach "A transport device is provided for transporting a water ride participant from a first elevation to a second, higher elevation. The device includes a spiral transport element extending generally between the first and second elevations." Davis appears to teach transporting water ride participants for the purposes of entertainment. Brodrick appears to teach using hook and loop materials in combination with conveyor belt systems in order to transport rafts on very steep

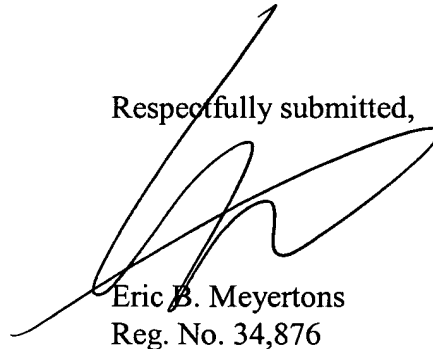
conveyors. Applicant respectfully submits there is no motivation to combine the teachings of Davis and Brodrick by combining hook and loop conveyor system designed to convey rafts up very steep inclines, which would be inherently dangerous to transport participants in said rafts up such steep inclines, with a water ride using a spiral transport designed to transport water rides participants between elevations in an entertaining manner. Applicant submits Davis in view of Brodrick does not appear to teach the combination of features in Applicant's claims, including but not limited to "wherein the elevation system comprises a conveyor belt system." Applicant respectfully submits that the cited art does not appear to teach or suggest the combination of features in claims 15 and 29. Applicant requests removal of the obviousness rejection of claims 15 and 29.

D. Conclusion

Applicant submits that the claims are in condition for allowance. Favorable reconsideration is respectfully requested.

A fee authorization form is included to cover fees for submission of an Information Disclosure Statement. If any extension of time is required, Applicant hereby requests the appropriate extension of time. If any additional fees are required or have been overpaid, please appropriately charge, or credit, those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5898-00100/EBM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric B. Meyertons", is written over the typed name and registration number.

Eric B. Meyertons
Reg. No. 34,876

Attorney for Applicant

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398
(512) 853-8800 (voice)
(512) 853-8801 (facsimile)

Date: 3/7/05